

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-754020-D1 AND ALL  
OTHER SEAMAN DOCUMENTS

Issued to: Manuel Aronek

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1584

Manuel Aronek

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 3 June 1966, an Examiner of the United States Coast Guard at New York, N.Y., suspended Appellant's seaman's documents for two months outright plus four months on 12 months' probation upon finding him guilty of misconduct. The specification found proved alleges that while serving as an electrician on board the United States SS AMERICAN COMMANDER under authority of the document above described, on or about 12 May 1966, Appellant wrongfully attempted to pilfer ship's cargo, to wit: five bottles of Scotch whiskey, at London, England.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of guilty to the charge and specification.

At the end of the hearing, the Examiner rendered an oral decision in which he concluded that the charge and specification had been proved by plea. The Examiner then entered an order suspending all documents issued to Appellant for a period of two months outright plus a four months on 12 months' probation.

The entire decision was served on 7 June 1966. Appeal was timely filed on 10 June 1966, and perfected on 22 August 1966.

FINDINGS OF FACT

On 12 May 1966, Appellant was serving as electrician on board the United States SS AMERICAN COMMANDER and acting under authority of his document while the ship was in the port of London, England.

On the date Appellant was operating a winch, and lowered a bucket containing tools for engineer personnel into a hold. When Appellant saw whiskey in the cargo in the hold he asked the others to put some in the bucket for him. When they refused, Appellant went down into the hold himself and put five bottles into the bucket. By the time he returned to the main deck to raise the

bucket he was apprehended by and frustrated by the Chief Mate.

### BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged that the order imposed is too harsh considering Appellant's prior good record.

APPEARANCE: Abraham E. Freedman, of New York, N.Y., by Edwards M. Katz, Esq.

### OPINION

The entire thrust of appeal goes to harshness of the order, because of Appellant's prior good record and because he was unsuccessful in accomplishing his coup.

Appellant's prior good record is a matter for consideration in determining an appropriate order in this case. The Examiner did consider it.

The fact that he was unsuccessful in making off with the cargo is not something affirmative in his favor.

While he was charged with merely "attempting to pilfer," it may be noted that the common law elements of pure larceny appear to be spelled out. It is immaterial that possibly a different offense, not attributable to Appellant, is seen here, that of breaching cargo, since intoxicants are not shipped by the bottle but in "case" or other package quantities. It would appear, on this record, that someone else had breached the cargo and that Appellant had simply fallen the victim to the temptation to which another's act had exposed him.

This does not aid Appellant.

### CONCLUSION

I cannot say that the Examiner abused his discretion in determining an appropriate order here, nor has anything been offered to me not known to the Examiner.

### ORDER

The order of the Examiner dated at New York, N.Y. on 3 June 1966, is AFFIRMED.

P.E. Trimble  
Vice Admiral, U.S. Coast Guard  
Acting Commandant

Signed at Washington, D.C., this 13th day of September 1966.

## INDEX

Theft of cargo

appropriate order